MR M. R. NARAYANA PILLAI: I wish to submit one point for the decision of the Chair. As a matter of convenience may I request that the elections for the Economic Development Board may be held immediately after 1 o' clock when the House adjourns for lunch today. In the evening there is the adjournment motion also for discussion which will take up the time of the House beyond 5-30 P. M. Hence my request.

DEPUTY PRESIDENT: It is a matter for the House to decide, for, it has already been announced that the elections to the Economic Development Board will take place after the close of business for today. If the House thinks that the elections could be conducted between 1 P. M. and 2 P. M. and finished by then, it is a matter entirely within the discretion of the House and therefore I leave it to the House to decide the point.

Is it the wish of the House that the election should take place between 1 and 2 P. M. to-day?

The House voted for the motion.

DEPUTY PRESIDENT: The elections to the Economic Development Board will take place between 1 and 2 P. M. to-day.

OATH OF OFFICE.

Mr. K. Madhava Kurup, Director of Registration, took the oath and signed the Rolls:—

LEGISLATIVE BUSINESS.

THE TRAVANCORE EZHAVA ACT AMENDMENT BILL.

MR. N. R. KRISHNAN (*Ambalapuzha* cum *Shertalla*): ഈഴവ റഗുലേഷൻ സെലക്ററു കമ്മിററി തയ്യാറാക്കിയ റിപ്പോർട്ട ഈ സഭയുടെ പരിഗണനയ്ക്കായി ഞാൻ അവതരിപ്പിച്ചുകൊള്ളുന്നു.

MR. K. G. GOVINDAN: Sir, on a point of order. I would like to know if the honourable member Mr. N. R. Krishnan is in order in moving for the consideration of the Travancore Ezhava Act Amendment Bill. My point is this. The honourable member Mr. N. R. Krishnan introduced a Bill into this Assembly. That Bill was called the Ezhava Bill. That Bill was sought to repeal the present Ezhava Act. This House referred that Bill to a Select Committee which rejected the Bill of Mr. Krishnan practically in its entirety. They drafted another Bill and it is known as the Ezhava Act Amendment Bill. That seeks to amend some of the provisions of the existing Ezhava Act. Rule 34 of the Travancore Legislative Rules is to the following effect:— "No motion that a bill be taken into consideration or be passed shall be made by any member other than the member in charge of the Bill.....

For the purpose of this rule, member in charge of the Bill, means, in the case of a Government Bill, any member acting on behalf of the Government and in any other case the member who has introduced the the Bill....."

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[Mr. K. G. Govindan.]

It is true that the honourable member Mr. N. R. Krishnan introduced a Bill. But the Bill he introduced is the Ezhava Bill and not Ezhava Act Amendment Bill which is entirely different from the Bill introduced by Mr. Krishnan. It follows Mr. Krishnan did not introduce the Bill under consideration. It follows Mr. Krishnan is not in charge of the Bill under consideration. It follows Mr. Krishnan, under this rule, is not competent to move for the consideration of the Bill. Therefore I would like to have a ruling from the Chair whether the honourable member Mr. N. R. Krishnan is in order in making this motion.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, it is wrong to say that this is entirely a new Bill. The honourable member himself might have noticed that the Bill originally introduced in this House by Mr. N. R. Krishnan was an amending and consolidating Bill which he proposed to introduce. The Bill, it might be remembered, was drafted not by an expert whose business it is to draft legislative Bills but by one honourable member of this House. Instead of bringing forward an amendment Bill he brought a Bill for amending and consolidating the existing Bill and therefore it was that in the last clause it was stated that the Ezhava Act would stand repealed. This House accepted the principles underlying that Bill and referred it to a Select Committee. When the Bill was under their scrutiny it was then found that the bulk of the provisions contained in the Bill were the same as those in the existing Act and hence it was decided that those provisions which did not require any change might be left as they were and that only such amendments as were proposed to be effected might be incorporated for consideration. In other words, those portions which required changes were culled out of the original Bill and suitable provisions put instead after discussion over them. It was found that legislative decency required that the Bill should be consolidated in a proper form and presented to the House. Hence it took the form of an amendment Bill. The member in charge of the Bill Mr. N. R. Krishnan also accepted that view of the Committee. The Select Committee have made certain proposals and they are put in the form of a Bill which is usually in such form as it ought to be presentable to the House. I may however point out that the learned argument of my honourable friend Mr. K. G. Govindan however ingenious it may be is not supported by the rules quoted by him. It is Mr. N. R. Krishnan's Bill that the House referred to the Select Committee. It was only in that Bill changes were made. But when changes had to be made, that had to be in certain form. That alone has happened. It is not a new Bill but the old Bill of Mr. Krishnan with some of the provisions properly revised. Therefore, I submit that the point of order raised does not strictly speaking arise at all. This is not a new Bill. It is only the old Bill of Mr. N. R. Krishnan and Mr. N. R. Krishnan alone is in charge of the Bill.

DEPUTY PRESIDENT: A point of order has been raised by Mr. K. G. Govindan that the Bill as now moved by the mover of the

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original Bill is different from what it was, rather when it was first introduced. He further says that the charactor of the Bill is entirely different from the original Bill. The Bill as pointed out by the Legal Remembrancer was meant to be an amending and consolidating Bill as it was originally intended. It was referred to a Select Committee and the Select Committee has reported that the purpose of the original Bill would be served by an amendment bill of the nature which is now placed before the House. The only thing that this House has to consider is whether the Select Committee has departed from the principle of the original Bill as introduced by Mr. N. R. Krishnan. Judged from that point of view I am of the opinion that this Bill has not departed from the principle of the original Bill whatever be the name that is given to the Bill. I am of the opinion that it has not departed from the principle of the Bill and that the Bill as it is now reported by the Select Committee is perfectly in order and therefore it can be taken up for consideration by the House.

MR. S. NARAYANA PILLAI: I second Mr. N. R. Krishnan's motion.

MR. K. G. GOVINDAN: Sir, as an amendment, I move under Standing Order 41 (2) that the Bill be recommitted. My chief reason is that the Select Committee has acted *ultra vires*, has gone far beyond its power, in so far as it has practically rejected Mr. N. R. Krishnan's Bill and placed in its stead an amendment Bill. When a Bill is introduced into this Assembly and when that is referred to a Select Committee, it is to be persumed that this Assembly concurs with the general and basic principles contained in the Bill and it is not open to the Select Committee to completely disagree with the basic principles contained in the Bill. In this connexion I would like to cite an authority in support of my point from the "Select Decisions of the Chair in the Imperial Legislative Assembly."

> "The Chair cannot lay it down as an invariable rule that in no case can the Select Committee report that the House should not proceed with a Bill committed to it. Indeed it is easy to conceive of circumstances in which it might be necessary for the committee to make such a report. But at the same time the Chair is quite clear that it is not open to the Select Committee to say that it does not agree with the principle of the Bill"....

MR. KAINIKARA M. PADMANABHA PILLAI (*Changanacherry* cum *Peermade*): Has the Select Committee ever stated that they cannot agree with the principle of the Ezhava Bill?

MR. K. G. GOVINDAN: I am coming to that point. My honourable friend will wait for some time.

Now, I will answer the question raised by my honourable friend, Mr. Padmanabha Pillai. In the report of the Select Committee, in the second para it is stated "the Committee are of the view that the purpose of the bill would be achieved better by an Amendment Act" implying thereby that the Amendment Act would contain in it all the chief amendments sought to be introduced into the existing Act by Mr. Krishnan's Bill. The next sentence dispels that idea. "The Committee have therefore decided to *re-draft* the Bill". I submit a better word would have been "*reject*" the Bill, embodying in it such of the

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[Mr. K. G. Govindan.]

provisions of the bill as have been agreed to and adopted by the committee. "The definition of the word "Ezhava" and the provision with regard to marriages between Ezhavas and Non-Ezhava Hindus are highly controversial and the Committee have therefore decided to omit them." That is one of the main principles contained in Mr. N. R. Krishnan's Bill. The Committee have decided to omit it. Then the last paragraph of the Report. "On the question of partition, the committee have come to the conclusion that a declaration effecting a severance in status without even a claim by a member is inconsistent with the interests of the community;....." Who said it is inconsistent with the interest of the community? That is one of the fundamental principles of Mr. N. R. Krishnan's Bill. That Bill says that the members of a Marumakkathayam tarawad shall be deemed to be Tenants-in-common from the date of passing of this Act. That is one of the most important principles and revolutionary also.

MR. PUTHUPALLY S. KRISHNA PILLAI: Was not the intention of the Select Committee to see that the bill is drafted in such a way that it would be in the interests of the Ezhava Community? That I think was the main intention of the Committee. They thought that the bill should be changed in such a manner that it would be in the interest of the community though some changes are made here and there in the principle of Mr. Krishnan's Bill.

MR. K. G. GOVINDAN: I am not now at the point whether it is good or bad to the community or whether it will serve the interests of the community. My only point now is to prove to this House that the principles contained in Mr. N. R. Krishnan's Bill have not only been accepted but have been entirely rejected by the Committee. That is my point.

As has been stated by the honourable Legal Remembrancer, it might be said that the Amendment Bill drafted by the Select Committee contains almost all the vital changes sought to be introduced by Mr. N. R. Krishnan's Bill. I shall presently show that it contains practically none of the suggestions contained in Mr. N. R. Krishnan's Bill. That is my next attempt. The honourable Legal Remembrancer said that the Amendment Bill contains in it almost all the principles in the original Bill and therefore it is not an Amendment Bill and that it is practically the original bill itself. That is the trend of the Legal Remembrancer's argument.

I shall presently show that the Amendment Bill does not contain practically any of the major provisions contained in Mr. N. R. Krishnan's Bill. Clause III of the Bill introduced by Mr. N. R. Krishnan reads as follows:—"The conjugal union of an Ezhava subject to the restriction of consanguinity and affinity with any Hindu, entered into in writing registered—" etc. 'Conjugal union of an Ezhava with any *Hindu*'. That is a vital change. This House which passed the Civil Marriage Bill will be rather slow in rejecting that provision. That is my firm conviction. But that provision has been rejected by the Committee.

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Then with regard to marriage. Clause IV of Mr. N. R. Krishnan's Bill says:—"Notice of a marriage under this Act shall be given by the husband to such authority in such form and within such time as the Government may prescribe. On failure to give such notice the husband shall be liable to be punished with fine which may extend to Rs. 190. ————". That provision has been accepted by the Select Committee except with the change that instead of Rs. 190 they have put in Rs. 100. The Select Committee has accepted the principle contained in the provision.

The Select Committee has accepted Clause IX of Mr. N. R. Krishnan's Bill.

"Six months after the service of the copy as aforesaid, if the petition is not withdrawn in the meantime, the Court shall declare in writing the marriage dissolved and shall proceed to determine the amount of compensation.....". That is a suggestion contained in Mr. Krishnan's Bill. As it stands to-day, marriage cannot be dissolved without a determination of the amount of compensation. Now the suggestion is that the marriage may be dissolved and then the question of determination of compensation proceeded with. That has been accepted by the Committee and I submit that that is the only provision which has been accepted by the Committee.

The other important provision in Mr. N. R. Krishnan's bill is with regard to the inclusion of father as an heir to the intestate. That, I submit, is a principle alien to the Marumakkathayam law. To make the father heir of an Ezhava male who dies intestate leaving him surviving children is revolutionary. But all the same that has been introduced in Mr. N. R. Krishnan's bill. That also is completely rejected by the Committee.

But in the case of an Ezhava male dying without children, Mr. N. R. Krishnan's bill says that the father also should be included as an heir. The Select Committee also accepts that provision. But there also, though accepting the principle in part they reject one of the foremost provisions contained in the bill.

In the existing Act when an Ezhava male dies without issues, then the brothers and sisters of the intestate also get a share of the property of the deceased. That provision is in Mr. N. R. Krishnan's Bill. "In the absence of the mother, the property which would have devolved on her had she survived the intestate shall devolve on the Thavazhi." That is what is contained in Mr. N. R. Krishnan's bill. But the Select Committee has rejected it. The Committee does not make any provision for sisters and brothers of the intestate. That again is a vital change. The provisions that is contained in Mr. N. R. Krishnan's Bill has been rejected without assigning any reason.

Then with regard to the self acquired or separate property of a female, Mr. Krishnan had included father also as heir. But the Committee has rejected father.

The most important provision contained in the Bill which has been harshly rejected by the Committee is with regard to partition.

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[Mr. K. G. Govindan.]

Mr. Krishnan's Bill says :—

"For the purposes of partition the members of a Marumakkathayam Tharawad shall be deemed to be Tenants-in-common from the date of the passing of this Act".

That is said in a very simple language. But instead of that the Committee have thought it fit to incorporate into the Amendment Bill some 5 or 6 sections. The Amendment Act says :—"(1) Subject to the provisions of Sections 29, 30, 31 and 33—

(*a*) every adult member of the Tharawad shall be entitled to claim his or her share of the property of the Tharavad :

(*b*) the majority of the adult members of a Thavazhi shall be entitled to claim on behalf of the Thavazhi the share due to the Thavazhi", etc.

Then it goes on to say :—

"Explanation :—for the purpose of this section the share of the member shall be deemed to have become determined—

(a) by the presentation of a plaint in a suit by him for partition of such share ; or

(*b*) by the presentation of a written statement claiming such share in a suit for partition ; or

(*c*) by an unequivocal declaration made in writing registered in accordance with the law relating to registration of documents".

What is all this, Sir,

What is 'unequivocal declaration and in writing registered and all that. It is very difficult to make an unequivocal declaration for an old man on his death bed. How to make an unequivocal declaration ? Is he to sit up and write down "I hereby solemnly declare I have become severed in interest from my family". Has it to be read over three times ? Then it is said "in writing registered". Is it enough to register it in the Anchal office? To whom is it to be sent? Is it to be sent to all the members of the Tharawad ? All these things will lead to a lot of complications. Instead of that the provision in Mr. Krishnan's Bill is simple in language, legal in phraseology, concise in expression and lucid in meaning. Any lawyer can understand all the incidents connected with tenants-in-common. Instead of this simple provision the Committee has thought it fit to incorporate cumbersome provisions.

So, Sir the Amendment Act now under the consideration of this House, I submit, does not contain the main provisions contained in Mr. Krishnan's Bill. The Committee has without authority rejected the main principles contained in Mr. N. R. Krishnan's Bill. Therefore I submit that the Bill under consideration is not at all the Bill introduced by Mr. N. R. Krishnan. It is entirely a different Bill for which Mr. Krishnan is not responsible but only the Committee is responsible. Therefore I submit that the action of the Committee is *ultra vires*, that the Amendment Bill cannot be taken into consideration and that it should be recommitted to the same Committee with instructions to amend the Bill of Mr. N. R. Krishnan or this House may authorise the Committee to reject that Bill and introduce another amendment bill containing in it all the main provisions of Mr. Krishnan's Bill.

The motion fell through for want of a seconder.

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DEPUTY PRESIDENT: The question before the House is that the Bill as reported by the Select Committee be taken into consideration.

The motion was put and carried.

The question that clause 1 do stand part of the Bill was put and carried.

Clause 1 was added on to the Bill.

Clause 2.

MR. K. G. GOVINDAN: Sir, I do not move the amendment.

The question that clause 2 do stand part of the Bill was put and carried.

Clause 2 was added on to the bill.

Clause 3.

MR. K. G. GOVINDAN: Sir, I beg to move the following amendment:—

"Instead of Clause 3, insert the following and renumber the subsequent Clauses.

"In Section 5 of the said Act insert the following second proviso:

"Provided further that no marriage solemnised on or after the date on which the Amendment Act comes into force shall be deemed to be legally valid unless it is openly solemnised by tying manga'yasutram, or putting a chain, around the neck of the female by the male."

Sir, the object of my amendment is to minimise the great complications and difficulties with regard to the question of marriage or the fact of marriage. Whenever a bigamy case comes up before a Court the first marriage or the second marriage is often denied. Sir, I refer only to cases where the parties are Ezhavas. The denial is based on the ground that there is no actual tying of Mangalyasutram. Mangalyasutram is a thread to which is attached the marriage token *viz.*, a *Minnu* or *Thali*. That is to be tied. Since that actual process of tying is wanting it is alleged that there was no legal marriage according to the Ezhava Act. According to the Act only in two cases, a marriage is valid. There must be an open presentation of cloth or tying of Mangalyasutram. Sir, I have seen a good number of marriage ceremonies. And in the majority of cases there is no open presentation of cloth. Of course, cloth is presented but not openly. The bridegroom takes the bridal cloth along with him to the bride's house. It is taken to the bride's apartment by a friend of the bridegroom. She clads herself in the clothes brought by the bridegroom and comes to the Vivahamandapam. There a chain is put by the bridegroom round the neck of the bride. In none of the marriages which I have witnessed was there a tying of the Mangalyasutram. Strictly it is not in conformity with law and strictly speaking 80 per cent of the marriages are illegal, because there is neither open presentation of cloth or tying of the Mangalyasutram. Fortunately a recent ruling of the High Court 30 T. L. J. 1051 held that the tying of the Mangalyasutram means also putting a chain round the neck. But for the ruling of the High Court 80 per cent of the Ezhava marriages would have been illegal.

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[Mr. K. G. Govindan]

Now, Sir, it appears another case is pending before a Full Bench of the High Court where this same question is being re-agitated: Whether the tying of Mangalyasutram should not mean the actual tying of the thread or it should mean only putting a chain round the neck alone. The Full Bench may overrule the previous ruling or may not. My object is to prevent the High Court from giving different rulings on this point. Therefore I have had those words "putting a chain, around the neck of the female....." inserted.

MR. M. R. NARAYANA PILLAI: May I know what the "putting a chain, around the neck of the female" means?

MR. K. G. GOVINDAN: It is not my words, Sir, but those are the words of the High Court.

The amendment fell through for want of a seconder.

MR. K. G. GOVINDAN: Sir, I move the following amendment in clause 3:—

"In clause 3, between 'parties' and 'or' insert 'to'.

Sir, this amendment is intended only for the sake of having better English.

MR. KOTTALIL P. ABRAHAM (*Muvattupuzha* cum *Devicolam*): Sir, I second the motion.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, the amendment is unnecessary. The absent of the word 'to' in the original clause has created no difficulty for the last 14 years. Nor is it a mistake to the Ezhava community that in clause 3 of the Bill the word 'to' has been omitted. And further it has not given rise to any misinterpretation. If my learned friend thinks that the word 'to' will lead to enhancement of perfection of the legislation I can only say to him that he must be concerned not with these trivial things but with important questions of principle. After getting out of the House we must have a feeling that after all we have achieved something. The present amendment is sought to achieve not any substantial thing but it is which can be brought forward for the sake of grammar or symphony. There is nothing said in support of this amendment. I am, Sir, of the opinion that it is unnecessary and as such I oppose it.

The motion was put and lost.

MR. K. G. GOVINDAN: Sir, the honourable member Mr. N. R. Krishnan has accepted my amendment.

DEPUTY PRESIDENT: It is for the House to accept or reject the amendment.

The question that clauses 3 and 4 do stand part of the Bill was put and carried.

Clauses 3 and 4 were added on to the Bill.

Clause 5.

MR. K. G. GOVINDAN: Sir, I move the following amendment:—

Delete Clause 5 and substitute the following:

'For Section 16 of the said Act the following shall be substituted:

'On the death of an Ezhava male leaving him surviving no children but his widow, his thavazhi and his father, one half of his self acquired or separate property left undisposed of by him at his death shall

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devolve on the widow and the other half on his thavazhi and his father in equal shares. In the absence of any one of them viz., his widow, his thavazhi or his father, the other two shall take the whole in equal shares and in the absence of any two the survivor shall take the whole :

Provided that the widow shall be entitled to be in possession of the intestate properties till division is effected."

In the Ezhava Act, the corresponding provision is Section 16. It reads :—

'On the death of an Ezhava male, leaving him surviving no children but only a widow and members of his Thavazhi, one half of his self acquired or separate property left undisposed of by him at his death, shall devolve on the widow, and the other half, on his Thavazhi In the absence of the widow, the whole shall devolve on his Thavazhi and in the absence of any member of his Thavazhi, the whole shall devolve on his widow :

Provided that the widow shall be entitled to be in possession of the intestate's property till division is effected.'

Now in this section, provision is made for the brothers and sisters of the intestate to take a share of the intestate's property. That provision has been in existence for the last so many years, from the date of the promulgation of this Act. No reason has been attributed by the Committee for rejecting that very necessary provision. The Committee says that, if an Ezhava male dies without children and leaving survivors father, mother and a widow, then, each of them shall get a share. But suppose there is no mother surviving the intestate, then, it naturally follows that the whole of the property of the intestate shall devolve on his widow and his father. Nothing goes to the brothers and sisters of the intestate. If the mother is alive, or the mother survives the intestate, of course, the brothers and sisters of the intestate also get something, because the mother gets something and after her death, her children may get her portion. But if the mother dies before the intestate, then the sisters and brothers do not get anything at all. My submission is that it is a very hard case. The acquisitions made by an Ezhava male, it is very natural, should go to his children. There can be absolutely no objection to that. But if he has no children, is it not very just that some of his property should go to his own brothers and sisters? Why should the entire property go to his widow who is childless and after her death, to some other distant family, with respect to which, the intestate has absolutely no interest except that he married a girl from there.

MR. KAINIKKARA M. PADMANABHA PILLAI: May I know from the honourable member to which section in the original Act he is referring :

MR. K. G. GOVINDAN: Section 16.

MR. KAINIKKARA M. PADMANABHA PILLAI: Where is the provision there to give the property to brothers and sisters ?

MR. K. G. GOVINDAN: Provision is made for his thavazhi. His Thavazhi means his mother's Thavazhi; and that means his own brothers and sisters and the issue how-low-so-ever in the female line.

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MR. KAINIKKARA M. PADMANABHA PILLAI: And what is the difference in the present clause?

MR. K. G. GOVINDAN: That is exactly the point I am driving at. The honourable member evidently has not understood the clause.

MR. KAINIKKARA M. PADMANABHA PILLAI: I do not understand him.

MR. K. G. GOVINDAN: According to the Amendment Bill, when an Ezhava male dies without issue, his property shall devolve upon his father, his mother and his widow. But according to Section 16 of the Ezhava Act the property shall devolve on the widow and the members of his Thavazhi. Members of his Thavazhi means his mother and his brothers and sisters and the issue how-low-so-ever in the female line of his mother. But that provision is not here now. As I said, if the mother survives the intestate, there may not be any difficulty, because the mother, after the intestate, gets the share and that naturally may pass down to her children. But if the mother dies before the intestate, then the whole difficulty crops up. The brothers and sisters of the intestate get absolutely nothing. That provision which was in vogue for the last 16 years must have been repealed with reason, and the committee must have attributed sufficient reason for repealing that provision.

MR. P. KUNJUKRISHNAN: Why not the father's share go to his children also.

MR. K. G. GOVINDAN: It may go or may not go and even then it is only the father's share.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Is it not the case in the death of the mother also? If the mother disposes of the property she gets, how can the children get?

MR. K. G. GOVINDAN: That is, Sir, what I said. In the original Act, provision is made for his Thavazhi and not for the mother. His Thavazhi means his mother's Thavazhi which means his own brothers and sisters. That was the position in Section 16.

MR. PUTHUPALLI S. KRISHNA PILLAI: When this bill was introduced, did the honourable member or any member of this house raise an objection?

MR. K. G. GOVINDAN: Which bill?

MR. PUTHUPALLI S. KRISHNA PILLAI: Mr. N. R. Krishnan's bill. May I draw the honourable member's attention to Clause 15 of the original bill. In Clause 15, was it not the proposal that on the death of an Ezhava male leaving him surviving no children but only widow, father and mother, one half of his separate or self acquired property left undisposed of by him at his death, shall devolve on his widow and the other half on his father and mother in equal shares; in the absence of the widow the whole shall devolve on the father and mother, in the the absence of the mother the property which would have devolved on her, had she survived the intestate shall devolve on her Thavazhi. In the absence of the father and members of his Thavazhi the whole shall devolve on the widow.

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MR. K. G. GOVINDAN: That is exactly my point. In Mr. N. R. Krishnan's bill, the provision in clause 15 is 'In the absence of the mother the property which would have devolved on her had she survived intestate shall devolve on her Thavazhi'. It is explicitly stated in Section 16 of the Ezhava Act and in clause 15 of Mr. N. R. Krishnan's Bill. But it does not find a place in the present Amendment Bill. What is the reason?

MR. PUTHUPALLI S. KRISHNA PILLAI: You may add it.

MR. P. NARAYANA PILLAI: I second the amendment.

MR. N. R. KRISHNAN: I accept the amendment, Sir.

DEPUTY PRESIDENT: Mr. Puthupalli Krishna Pillai, have you got any thing to say?

MR. KAINIKARA M. PADMANABHA PILLAI: Sir, I have to say one word. I am afraid that this amendment is against the intentions underlying the amendment of the Act, and I was surprised to hear Mr. N. R. Krishnan accepting it. Of course Mr. K. G. Govindan's position is quite consistent with the one that he has taken from the beginning. He proceeds on the assumption that the Ezhava bill as it was introduced by Mr. N. R. Krishnan and the present Ezhava Act amendment bill are entirely different in their principles. If that be the case, of course, the present amendment is quite tenable. But, on the contrary, the Select Committee, as well as the Assembly to-day have expressed the opinion that the Ezhava Act Amendment Bill is not substantially different from the Ezhava Bill as it was introduced by Mr. N. R. Krishnan. If that is so then the position is different. The one guiding principle that was in the mind of Mr. N. R. Krishnan was the transference from the Marumakkathayam to Makkathayam. In the Select Committee also the whole discussion was in that line. Without entering into the details if the discussion in the Select Committee, I can say that the Ezhava members were definitely of the opinion that the last blow must be struck on whatever element there was of Marumakkathayam in the Ezhava Community. Personally, Sir, I would be glad if this Amendment is accepted. I would be glad if at least what obstacles still within the way of the final disruption of the community are maintained.

(Rajyasevapravina G. Parameswaran Pillai :— *Hear, Hear.*)

When this morning the discussion began, and Mr. K. G. Govindan got up and invited the attention of his community and this Assembly to the dangers of hastily passing this Legislation, I had again a ray of hope that the Ezhava Community would at the last moment escape from falling into the tremendous pit into which we fell sixteen years ago. But that hope was frustrated. Now as it stands, Sir, what I have to say is that this Amendment is not consistent with the principles of the bill. If it is the purpose of the community to make individual partition unlimited and unrestrained, if it is the purpose of the community to wipe off even the last vestiges of Marumakkathayam and transfer themselves entirely to makkathayam with complete and absolute powers of division, then there is no sense in remembering Thaivazhi for the purposes of the intestate succession. If on the contrary, the community consciousness is even for continuing what small vestiges

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[Mr. Kainikara M. Padmanabha Pillai]

there are of Marumakkathayam, if the community wants to check unlimited division of property and Tharawad, it is a welcome thing. There is no meaning in saying we want to wipe out Thaivazhi and in the same breath to stand in the way of the widow, the mother and the father. Let us forget Thaivazhi or remember it on all occasions. There is no meaning in beginning a Bill for the purpose of wiping out the old thaivazhi system and then remembering thaivazhi at inconvenient moment. Therefore, it is, Sir, that I say that this amendment goes entirely against the trend of the Bill as it is placed before us.

I wish to make myself a bit clearer. I am not exactly opposing or supporting this amendment. My position has been all along to leave the bill mainly in the hands of the Ezhava community and allow them to decide what fate they must have. But after having decided their fate, I must ask them to be logical. If they want unlimited powers of division and rigorous makkathayam by all means let them have, but let them not at odd times remember the old poor thaivazhi and bring it in just to frustrate the interests of a widow or a mother or a father.

MR. K. G. GOVINDAN: May I know how it is the perpetuation of the Marumakkathayam family if the Ezhava male died without issue and father and mother and the property is entirely to go to the widow and after that to some other entirely distant family?

MR. KAINIKKARA M. PADMANABHA PILLAI: Why do you care? Where is your brother and where is your sister? Having forgotten your brother, having forgotten your sister, having forgotten her children, what is the meaning of your thinking of your thaivazhi at the eleventh hour? You have buried it. Either remember your thaivazhi, your brother, your sister and your family right through and maintain the tarawad consciousness; or if you want to bury it, then bury it deep. The division of the self-acquired property of a man must be entirely and freely within his power and what is the sense in trying to introduce the thaivazhi at the eleventh hour?

MR. K. G. GOVINDAN: Then may I know why the father should have been included?

MR. KAINIKKARA M. PADMANABHA PILLAI: Because the father is the father. It is exactly because we are forgetting the thaivazhi and it is exactly because we are passing from marumakkathayam to makkathayam that the father is brought in. If it were marumakkathayam the father would not have been brought in. On the contrary, we are effecting a change from marumakkathayam to makkathayam. Therefore the father and in a way the father alone has to be remembered. Therefore, if you want to retain the old love for sister and brother and the tarawad, as Mr. Govindan suggested let this Bill go back to the community. Let the community consider it again. There is no hurry, Sir. Perhaps I am making a belated cry in this wilderness. Yet I must say it.

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Sir, some 16 years ago we enacted an Act, I mean the Nairs. I am not pleading any innocence to it. At that time like every other Nair who supported the Bill I too believed that the only remedy for the evils that existed in the community was unrestricted freedom for division. The one thing that haunted our minds was the idea of the Karanavan. Sir, Karanavars that mismanaged families, the uncared for condition into which the nephews were thrown and the various ills that accompanied those conditions preoccupied our consciousness so deeply that we forgot the possibilities of a reaction.

MR. KANNANTHODATH JANARDANAN NAIR: He was saying that that every Nair supported the Bill. May I know whether that is a fact ?

MR. KAINIKKARA M. PADMANABHA PILLAI: I said 'like every other Nair who supported the Bill I too believed'—Should I repeat the whole sentence? Sir, I was saying that I am not innocent because whatever small powers I had at the time I also spent for bringing that Bill into effect. Now, Sir, at the end of 16 years, I am fully convinced, convinced by bitter experience that no other legislation has ruined a community more quickly than the Act that enabled the individual partition of the Nairs. The community that was the back bone of the State has been so disrupted and so divided. The Nair community has begun to pause, to take stock of the whole situation and they have began to feel that if this individual partition has removed certain ills, it has brought more evils that it has removed, and that the whole position has to be revalued and reassessed. We are thinking deeply and thinking furiously what we can do at least to give a check, at least to postpone the evil day. Of course, going back is more difficult. We know it. To take a plunge into the sea is easy but the coming back to the shore is difficult. The going back is difficult, but yet the community must go back or else the community is finished and lost. For in a country where various contending communities are engaged in bitter struggle for existence no community can lead a life worth living if its financial position in shattered and the financial position of the Nair community is shattered.

Now, Sir, with this melancholy example before them the Ezhavas are rushing on. I can only say that I am really sorry. The other day when in the Select Committee I said this, when I said, "we are ruined please do not rush to the same fate" one Ezhava friend smilingly asked me to allow them also be ruined. I did not vote against their wishes then and even now I will not vote. In these social legislation the deciding factor has to be the community concerned and if the community feels that it is really in their interests it is certainly open to them to adopt such a provision. In such a case, I shall merely wish them all success. But this is no joke. I speak with all the earnestness I can command. I am convinced by my experience, by my bitter experience by what I have seen happening before my very eyes, by the ruin that has befallen not one or two but thousands and thousands of families, that unrestricted powers of fragmentation and of divisions will ruin the solid

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financial foundation of any community. Therefore if Mr. Govindan's suggestion is taken in its full implication if the community is prepared to pause and think, it would be a happy thing. After all, Sir, is a community going to decide its fate within a year or two? It has got a life infinite. Why not the community wait and pause? Why not it see what is happening around it, study the situation, take things coolly? On the contrary, if conclusions have already been arrived at and if marumakkathayam and tarawad are to go, if partition is to be accepted, if makkathayam alone is to be the fashion, by all means go ahead, but let us be consistent and let us not have these untimely qualms of conscience which may not help us one inch forward.

In conclusion, Sir, let me once again request the Assembly and especially the members of the Ezhava community to pause and think.

SADASYATILAKA T. K. VELU PILLAI (*Trivandrum*): Sir, Mr. Padmanabha Pillai's speech persuades me to say a few words in spite of a very consistent effort I made to hold my tongue. It is a very important question which is being discussed to-day in this House. I am obliged to my friend Mr. Padmanabha Pillai, younger to me in years, possibly younger in experience, and younger certainly with regard to the ideas about Marumakkathayam and Makkathayam. The question is which is the law that should govern families hitherto governed by the marumakkathayam law. I congratulate Mr. Padmanabha Pillai on the straightforwardness, the lucidity and the courage of his utterances. Sixteen years ago, more correctly seventeen years ago, it was to some of us a sorrowful spectacle to see laws being passed by the old Legislative Council in a manner as to dismember a powerful community, a community, which has stood for strength, sobriety and patriotism. Some of us who had learnt the principles of legislation and had understood the condition of the Nair, the Ezhava and other Marumakkathayam communities, were obliged to raise our voice of protest against the indiscriminate manner in which the rights of members of tarawads particularly of Nair women and of women's progeny were being sacrificed at the altar of so-called social reform. I, Sir, was one of those very few individuals who set his foot rather firmly and tried to prevent the attempt: but the avalanche of self-opinionated judgment was carried itself to such an extent that when very important questions were raised I could hardly secure a brother member to second my motions.

I remember it all with no small pain. However it is rather late in the year 1117 to cry halt. The Nairs were behaving in a very friendly manner with the Ezhavas, with the Malayala Brahmins, with the Kshatriyas and with others, and because theirs was a community which once was powerful they were considered to be leaders of public opinion in certain matters. The movement towards makkathayam was sponsored by an organisation of the Nairs, an organisation which from that day to this has been growing strong, an organisation which in its capacity for demonstrative ornamentation is equalled only by its capacity for

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usefulness, the Nair Service Society led a militant movement against the last vestiges of the defenceless Marumakkathayam system. Many of its leaders and some of the followers obtained prominence: some were raised to heights in the official as well as the non-official world. The protests made against the dismemberment of the families went unheeded and the law was substantially changed by legislative processes. When the Nair community and those other communities which were friendly to them willingly let themselves to be operated upon by new motions, untested, unverified and accepted without reflection, fundamental changes were accepted and new concepts engrafted on the old law. Now, after all that had been done, after the backbone of the Marumakkathayam system had been broken it is not easy for any person to come forward and say that there must be some vestiges of the Marumakkathayam system brought on by way of reincarnation. To say that it would be easy, to say that it is expedient is a position which requires no small courage to maintain. I am glad I am here to-day as a connecting link between what passed sixteen or seventeen years ago and what is being transacted in this House to-day. But, Sir, whatever be the result and whatever be my views, I must congratulate Mr. Govindan on his efforts. Not that I give him any promise of support. Let the matter be argued, and let the community have an opportunity to understand the position. I am not concerned with the Marumakkathayam theory. It is claimed that in sixteen years, history has proved that the modified system is a most unpatriotic, unworkable and indefensible system, one which has dismembered not only Nair Tharawads but also other Marumakkathayam Tharawads. So far as I am concerned, I have been quite as friendly with the Ezhava community as with the Nair community. I was in the old Council where the Ezhava Bill was considered. The Ezhavas were very reasonable and were able to take care of themselves. Therefore it was that in spite of the beacon light that was held out by powerful Nairs at the time it was decided not to take any sudden jump all at once. I find from the speech of Mr. Padmanabha Pillai who represents a great organisation that it was a mistake to have partitioned tarawads and therefore the present law should be amended. I think, Sir, Providence is after all merciful. I only want to say to the Ezhava friends, "you know what is best to be done. If the community has made up its mind, I shall be most happy to support them." I congratulate Mr. Govindan for the courage with which he has proposed this bill. I congratulate the Nair Service Society on the support which one of its prominent members Mr. Kainikkara Padmanabha Pillai has chosen to give the movement.

MR. K. G. GOVINDAN: Sir, I move under para 17 of the Manual that this business be adjourned.

MR. K. KUNJU PANICKAR (*Mavelikara cum Kunnathur*): I second the motion.

The question that the consideration of the Bill be adjourned was put and carried.

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